

Montana Operations Manual

Disaster and Emergency Leave Policy

Policy Number	03-0320	First Issued	January 23, 1979
Issuing Authority	Department of Administration	Effective Date	
	State Human Resources Division	Last Revised	

Policy Purpose: This policy establishes uniform procedures for managing employee leave during a disaster or emergency.

Scope: This policy covers Montana's executive branch employees except student interns, short-term workers, the Montana university system, the Montana State Fund, elected officials, the personal appointed staff of elected officials, and any other position excluded under Section 2-18-103 and -104, MCA.

If these policy provisions conflict with specific collective bargaining agreements, the collective bargaining agreements take precedence to the extent they are applicable.

Procedures: The law provides temporary paid time off to employees when a worksite is closed because of a local disaster or emergency as provided in Title 10, Chapter 3, Parts 1 – 4, Montana Code Annotated (MCA).

Employees may be granted leave in the event of a disaster or emergency in compliance with this policy and with policies or laws relating to military leave, annual vacation leave, sick leave, leave of absence without pay, and compensatory time.

Employees will receive approved paid time off only for regularly-scheduled hours.

A. Declared Disaster or Emergency

When the governor declares a disaster or emergency pursuant to 10-3-302 and 303, MCA, affected employees shall receive paid time off. The time off shall not be deducted from employees' accrued leave bank(s) or compensatory time.

Employees are affected by a disaster or emergency when their life, the lives of immediate household members or their personal property is endangered during a declared disaster or emergency. A state employee who is a member of the Montana National Guard and who is ordered to active federal or state service by competent authority is not an affected employee under this policy.

Following a declaration by the governor, each department director or agency head shall decide on a case-by-case basis whether employees are affected and the period of time for which employees should receive paid

time off. Employees requesting emergency leave under this policy must state the reasons why they are “affected by” the emergency.

Employees who are not affected and report for work and perform regular duties and responsibilities during a declared disaster or emergency will be paid their normal salary.

B. Personal Disaster or Emergency

There may be a time when employees are affected by a personal disaster or emergency that does not rise to the level of a declaration by the governor. In these cases, employees may take approved annual leave, compensatory time, or a leave of absence without pay. Employees may only use sick leave for reasons qualifying under the Sick Leave Policy (MOM #03-0310).

C. Worksite Closure

Employees will receive paid time off only for regularly-scheduled work hours occurring during a worksite closure. Employees who voluntarily report for work and perform their regular duties during the closure of an affected worksite will be paid their normal salary.

Employees will earn compensatory time in addition to their normal salary if management requires they remain at work or requires they report to work to perform essential services during the closure of an affected worksite. This provision applies to exempt and non-exempt positions. All overtime provisions also apply.

State-controlled facilities. A department director may declare an affected worksite closed when the site is under his or her authority and with the approval of the governor or his or her designee.

Agency management may choose to temporarily reassign employees to alternate worksites during an approved closure or approve paid disaster and emergency leave. The department director or agency head shall determine which employees are affected by the worksite closure and which will be reassigned to alternate worksites.

Non-state-controlled facilities. In some cases, employees may be temporarily or permanently assigned to a worksite that is not a state-controlled facility. If the facility is ordered closed under circumstances similar to those described in this policy, affected employees may receive paid disaster and emergency leave.

D. Volunteer Services

During a disaster or emergency, employees may wish to volunteer their time towards the recovery effort. Employees may do this through the certified American Red Cross disaster volunteer program or other volunteer opportunities. Employees must receive management approval prior to taking disaster and emergency leave for volunteer purposes.

Employees who are certified American Red Cross disaster volunteers may request up to 15 days (or a total of 120 hours for full-time employees) of paid time off annually. The paid time off shall not be deducted from employees' accrued leave if they are called upon by the American Red Cross to provide specialized disaster relief services. This leave may not be "saved" or carried over from year to year.

Employees must include verification of the request for services from the American Red Cross when requesting leave.

Employees on approved leave shall be paid their regular rate for regularly-scheduled hours without loss of longevity, pay, accrued leave, or compensatory time (2-18-627, MCA). Employees on approved leave are not eligible for overtime regardless of the number of hours volunteered. Agency management is not liable for employee expenses associated with the volunteer effort.

Training time required to become a certified disaster worker through the American Red Cross is not covered leave under this policy.

Employees who wish to provide volunteer service during a disaster or emergency and who are not certified American Red Cross disaster volunteers may request to take annual vacation leave, accrued compensatory time, or leave of absence without pay. Employees may only use sick leave for reasons qualifying under the Sick Leave Policy (MOM 3-0310). If requested by agency management, an employee must provide written verification of participation in the emergency recovery.

E. USERRA Qualifying Leave

Employees activated as members of the uniformed services under the Uniformed Services Employment and Reemployment Rights Act (USERRA) shall be allowed to take a leave of absence to respond to a disaster or emergency.

Employees on USERRA qualifying leave may request to use accrued annual vacation and compensatory time during the disaster and emergency leave. Employees may only use sick leave for reasons qualifying under the Sick Leave Policy (MOM 3-0310).

Resources:

Montana Code Annotated:

Disaster and Emergency Services - Title 10, Chapter 3, parts 1-4, MCA

Paid Leave for Disaster Relief Volunteer Service - 2- 18- 627, MCA

Annual Leave - 2-18-611, MCA

Sick Leave - 2-18-618, MCA

Federal Statute:

Uniformed Services Employment and Reemployment Rights Act (USERRA) - Title 38 USC, Chapter 43

State Policies:

Annual Leave Policy ([LINK HERE](#))

Sick Leave Policy ([LINK HERE](#))

Non-Exempt Compensatory Time ([LINK HERE](#))

Exempt Compensatory Time ([LINK HERE](#))

Definitions:

This policy includes all definitions under MCA 2-18-101. For the purposes of this policy, the following definitions also apply:

Affected worksite means portions of an agency's premises, which are directly threatened or affected by disaster or emergency conditions.

Certified American Red Cross disaster volunteer means a member of the Red Cross Disaster Services Human Resources System (DSHRS) who has completed the American Red Cross specialized training program for disaster volunteers and is certified by the American Red Cross as a disaster service technician, specialist, coordinator or officer.

Disaster means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or artificial cause, including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides, mudslides, volcanic action, fires, explosions, air or water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, disruption of state services, accidents involving radiation by-products or other hazardous materials, outbreak of disease, bioterrorism, or incidents involving weapons of mass destruction. as defined in 10-3-103, MCA.

Emergency means the imminent threat of a disaster causing immediate peril to life or property which timely action can avert or minimize as defined in 10-3-103, MCA.

Regular(ly)-schedule(d) means a pre-determined schedule an employee is customarily scheduled to work under normal circumstances and working conditions.

Specialized disaster relief means one or more of the following American Red Cross service categories in which a certified disaster service volunteer is trained including:

- shelter management;
- mass feeding;
- family services;
- health services;
- public assistance inquiries;
- damage assessment;
- a support function for the above listed services, or;
- any other service performed for the American Red Cross for which training is required.

Uniformed services means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency (Title 38 USC, Chapter 43).